

REMARKS/ARGUMENTS

1.) Claim Amendments

The Applicants have amended claim 16 and cancelled claims 24-30. Claims 16-23 remain pending in the application.

2.) Claim Rejections – 35 U.S.C. §112, 1st Paragraph

The Examiner objected to claims 24-27, 28, and 30 as failing to comply with the enablement requirement. Although the Applicants take exception to the Examiner's stated basis of rejection, claims 24-27, 28 and 30 have been cancelled, without prejudice or disclaimer, in order to expedite prosecution of the remaining claims.

3.) Claim Rejections – 35 U.S.C. §112, 2nd Paragraph

The Examiner rejected claims 16-30 as being indefinite, asserting that the term "approximating hyperplanes" used in claims 16, 24 and 28 "is considered indefinite statement with no antecedent basis as it is not defined sufficiently enough in the specification." The Applicants do not understand what the Examiner means by saying the term lacks "antecedent basis." As to whether the term is indefinite, in view of the specification, the Applicants direct the Examiner's attention to page 14, line 31, to page 16, line 8, which provides sufficient detail to enable one skilled in the art to practice the claimed invention. Additionally, the reason for using the approximating hyperplane is explained at page 14, lines 24-30.

No analytic result is known which describes the whole delay constraint surface of a class i . The delay constraint surface of a given class i is defined as the maximal number of class i sessions with respect to their delay requirements in function of number of sessions in other classes (see page 11, lines 28-31). However the inventors have found that this delay constraint surface can be approximated by a single hyperplane, and this approximation is conservative.

The approximating hyperplane is given in the space of number of sessions if K^S points of the hyperplane are known. S denotes the index set of queues and K^S the number of traffic classes of the system. K^S number of points of an approximating

hyperplane of class i can be determined where only a single class i session is in the system and other classes but j is empty (no ongoing sessions are present from other classes). Accordingly, P_{ji}^S is defined as the maximal number of class j sessions in the strict priority (SP) system if delay requirement of a single class i session should be kept and all other classes are empty. A formula for P_{ji}^S is given by (1) on page 15 of the application. Furthermore, solutions for the two different cases of when class i and class j are either served in the different queues or in the same queue are discussed on page 15, lines 21-28, and page 15, line 29, to page 16, line 8. From those teachings in Applicants' specification, one skilled in the art can readily understand that the approximating hyperplane can be used to determine whether a delay constraint of a class is fulfilled. Accordingly, the Applicants respectfully request that the Examiner withdraw the rejection of claims 16-30 as being indefinite.

The Examiner also stated that claim 16 was "unclear and vague" because the "examiner does not know if both of the initialization phase and the real-time phase or just the initialization phase will be invoked when the descriptor of a traffic class [is] changed." Claim 16 has been amended to clarify the claim. It is noted that the initialization phase is performed "if [the] descriptor of a traffic class has changed," as illustrated in Figure 8; otherwise, the real-time phase is entered directly.

4.) Claim Rejections – 35 U.S.C. §101

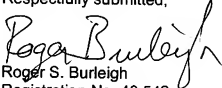
The Examiner rejected claims 16-23 on the asserted basis that those claims are directed to non-statutory subject matter. Although the Applicants take exception to the Examiner's stated basis of rejection in view of *Bilski*, claim 16 has been amended claim 16 to tie the claimed method a node of an Internet Protocol (IP) Differentiated Services (DiffServ) network, thus clearly satisfying the "machine" prong of the machine-or-transformation test enunciated in *Bilski*.

CONCLUSION

In view of the foregoing amendments and remarks, the Applicants believe all of the claims currently pending in the Application to be in a condition for allowance. The Applicants, therefore, respectfully request that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 16-23.

The Applicants request a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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